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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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SIONE ONE TAKAI,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(DOC. NO. 2)**

Case No. 2:23-cv-00023

Chief Judge Robert J. Shelby

Magistrate Judge Daphne A. Oberg

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Pro se petitioner Sione One Takai moves for appointment of counsel in this case brought under 28 U.S.C. § 2255.<sup>1</sup> There is no constitutional or statutory right to the appointment of counsel in § 2255 proceedings, unless an evidentiary hearing is held.<sup>2</sup> Nevertheless, counsel may be appointed when “the interests of justice so require” for a “financially eligible person” seeking relief under § 2255.<sup>3</sup>

After review of Mr. Takai’s filings, justice does not require the appointment of counsel at this time. Mr. Takai, through his filings, has shown an “ability to investigate the facts necessary

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<sup>1</sup> (See Petition for Appointment of Counsel, Doc. No. 2.)

<sup>2</sup> See *Gurule v. United States*, No. 2:21-cv-00344, 2021 U.S. Dist. LEXIS 224126, at \*1 (D. Utah Nov. 18, 2021) (unpublished); Rules Governing Section 2255 Proceedings for the United States District Courts 8(c).

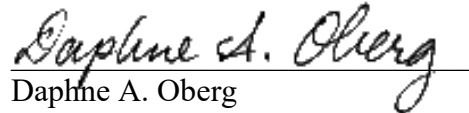
<sup>3</sup> 18 U.S.C. § 3006A(a)(2)(B).

for [the] issues and to articulate them in a meaningful fashion.”<sup>4</sup> Additionally, the issues Mr. Takai raises appear to be “straightforward and not so complex as to require counsel’s assistance.”<sup>5</sup> Finally, it is not apparent at this stage that an evidentiary hearing is warranted.

Therefore, Mr. Takai’s motion for appointment of counsel is DENIED. However, if it later appears counsel may be needed or of specific help, an attorney may be appointed.

DATED this 27th day of March, 2023.

BY THE COURT:

  
Daphne A. Oberg  
United States Magistrate Judge

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<sup>4</sup> *Sandoval-Ochoa v. United States*, No. 2:16-cv-1052, 2017 U.S. Dist. LEXIS 57112, at \*1 (D. Utah Apr. 13, 2017) (unpublished) (alteration in original) (internal quotation marks omitted).

<sup>5</sup> *Id.* (internal quotation marks omitted).